

AR

OCT 11 2002

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN Re: ENRON CORPORATION
SECURITIES, DERIVATIVE &
ERISA LITIGATION

MDL 1446

MARK NEWBY, et al.,

Plaintiffs,

vs.

ENRON CORPORATION, et al.,

Defendants.

CIVIL ACTION NO. H-01-3624
AND CONSOLIDATED CASES

DAVID A. HUETTNER, et al.,

Plaintiffs,

-vs-

EOTT ENERGY PARTNERS, L.P., et al.,

Defendants.

CIVIL ACTION NO. H-02-2984

PLAINTIFFS' MOTION FOR EXTENSION OF TIME
TO RESPOND TO MOTION TO DISMISS

Now come Plaintiffs, by and through counsel, pursuant to Rule 6 of the Federal Rules of Civil Procedure, and move the Court for a thirty day extension of time within which to respond to the Motion to Dismiss for Failure to State a Claim and Renewed Motion to Transfer Venue filed September 20, 2002 and supplemented September 23, 2002, by Defendants EOTT Energy Partners, L.P., Gibbs, Coombe, Hultsman, Maddox, Menchaca, Sample, Ralph, and Whitty.

1068

(

The Motion addresses complicated legal and factual issues and would be dispositive of Plaintiffs' entire case should it be granted. Pursuant to Civil Rule 6, Plaintiffs' response is due either October 9, 2002 (if the date of filing of the Motion, September 20, 2002, is the operative filing date), or October 10, 2002 (if the date of filing of the supplement to the Motion, September 23, 2002, is the operative filing date).

Civil Rule 6(b) states in pertinent part:

When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order. . . .

This request is being made before the expiration of the period originally prescribed for a response to the Motion. Good cause exists for this request because the issues presented in the Motion are complicated and the granting of the Motion would result in the dismissal of Plaintiffs' entire case. Moreover, Plaintiffs' counsel is currently involved in litigation in the United States District Court for the Southern District of Indiana (styled Leonard Duval, et al. v. Kenneth Mitani, et al., Case No. 1:02-cv-01282-LJM) and has been in preparation for a major hearing in that case scheduled to go forward on October 9, 2002.

Accordingly, for the foregoing reasons, Plaintiffs respectfully request that this Motion be granted and that Plaintiffs be afforded an additional thirty days, until November 11, 2002, within which to respond to the Motion to Dismiss for Failure to State a Claim and Renewed Motion to Transfer Venue filed September 20, 2002 and supplemented September 23, 2002, by Defendants

EOTT Energy Partners, L.P., Gibbs, Coombe, Hultsman, Maddox, Menchaca, Sample, Ralph,
and Whitty.

Respectfully submitted,

A handwritten signature in black ink, reading "John A. Huettner". The signature is written in a cursive style with a large, looping initial "J".

JOHN A. HUETTNER (0039479)

630 Leader Building

526 Superior Avenue, N.E.

Cleveland, Ohio 44114

(216) 771-1330

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Motion has been served by ordinary mail this

7th day of October, 2002, upon the following:

Walter J. Cicack
1221 McKinney Street
Suite 400
Houston, Texas 77010
*Attorney for Defendant EOTT Energy
Partners, L.P.*

Paul D. Clote
5300 Memorial Dr., Suite 800
Houston, Texas 77007
*Attorney for Defendants Gibbs, Coombe,
Hultsman, Maddox, Menchaca, Sample,
Ralph and Whitty*

Ashley N. Hudson
David, Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Attorneys for Arthur Andersen, LLP

Daniel R. Warren
Baker & Hostetler, LLP
1900 East 9th St.
Suite 3200
Cleveland, Ohio 44114
Attorneys for Defendant Kenneth L. Lay

James J. Bartolozzi
Kahn, Kleinman, Yanowitz & Arnson Co.
2600 Tower at Erieview
1301 East Ninth Street
Cleveland, Ohio 44114
*Attorneys for Defendant Arthur Andersen,
LLP*

Paul D. Flack
Nickens, Lawless & Flack, L.L.P.
600 Travis, Suite 7500
Houston, Texas 77002
Attorneys for Defendant Stanley Horton


JOHN A. HUETTNER